

ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Division of Oil and Gas

(Amended After Comments)

805 KAR 1:100. Commission's rules of procedure, spacing of deep well drilling, wildcat wells, and pooling of interests.

RELATES TO: KRS 61.874, 353.180, 353.510, 353.561 – 353.564, 353.590, 353.5901, 353.592, 353.651, 353.652, 353.6601 – 353.6606, 353.730, 353.737, Chapter 424

STATUTORY AUTHORITY: KRS~~[43A.100,]~~ 353.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.565 authorizes the Kentucky Oil and Gas Conservation Commission to promulgate administrative regulations necessary to prevent the waste, protect correlative rights, govern the practice and procedure of the commission, and administer the provisions of KRS 353.651 and 353.652. KRS 353.565(5) and (7)(a) require~~[requires]~~ the Kentucky Oil and Gas Conservation Commission to administer and enforce the provisions of KRS 353.651 and 353.652 by regulating the spacing of deep well drilling, drilling units, and pooling of interests. This administrative regulation establishes~~[provides information necessary for owners and operators to comply with]~~ requirements related to drilling deep vertical and deep horizontal wells for the purpose of oil or gas extraction~~[in the Commonwealth].~~

Section 1. Definitions,~~[and Construction. Unless the context otherwise requires, the following words and terms shall have the following meanings when used in these administrative regulations:]~~

(1) "Commission" is defined by KRS 353.510(4).

(2) ~~["Commissioner" is defined by KRS 353.510(2).~~

(3) "Correlative rights" is defined by KRS 353.510(6).

(3) ~~(4)~~ "Deep well" is defined by KRS 353.510(16).

(4) ~~(5)~~ "Department" is defined by KRS 353.510(1).

(6) "Director" is defined by KRS 353.510(3).

(5) ~~(7)~~ "Drilling unit" is defined by KRS 353.510(19).

(6) ~~(8)~~ "Field" is defined by KRS 353.510(10).

(7) ~~(9)~~ "Gas" is defined by KRS 353.510(8).

(8) ~~(10)~~ "Horizontal well" is defined by KRS 353.510(25).

(9) ~~(11)~~ "Just and equitable share of production" is defined by KRS 353.510(11).

(12) ~~(12)~~ "Oil" is defined by KRS 353.510(7).

(10) ~~(13)~~ "Operator" is defined by KRS 353.510(17).

(11) ~~(14)~~ "Overriding royalty interest owner" means a person other than a royalty owner,  
with~~that has~~ a right to a percentage share of production[,] or the value derived from produc-  
tion that is:

(a) ~~which is~~ Free of all costs of drilling and production; and

(b) ~~which is~~ Created by the lessee or working interest owner and paid by the lessee or work-  
ing interest owner.

(12) ~~(15)~~ "Person" is defined by KRS 353.510(5).

(13) ~~(16)~~ "Pool" is defined by KRS 353.510(9).

(14) ~~(17)~~ "Prevailing royalty" is defined by KRS 353.510(27).

(15) ~~(18)~~ "Royalty owner" is defined by KRS 353.510(18).

1 (16)(19) "Vertical well" is defined by KRS 353.510(26).

2 (17)(20) "Well" is defined by KRS 353.510(14).

3 (18)(21) "Wildcat well" means any deep vertical or horizontal well that~~(which)~~ is drilled:

4 (a) ~~[Drilled]~~With the intent of discovering or producing hydrocarbons from a formation or  
5 formations not previously productive of oil or gas well within 10,000 feet of its location; or

6 (b) ~~[Drilled]~~Under ~~[such]~~proven geological conditions that, even though located within  
7 10,000 feet from the nearest deep well previously productive of oil or gas, will not, if completed  
8 successfully, produce from a previously productive pool.

9 (19)(22) "Working interest owner" means an operator with~~(that has)~~ the obligation to bear  
10 all or a proportionate share of the costs and expenses of unit operation["Department" means the  
11 Department of Mines and Minerals as defined in KRS 353.010;

12 (2) "Commissioner" means the Commissioner of the Department of Mines and Minerals as  
13 defined in KRS 351.010;

14 (3) "Director" means the Director of Oil and Gas Conservation as provided in KRS 353.530;

15 (4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in  
16 KRS 353.565;

17 (5) "Person" means any natural person, corporation, association, partnership, receiver, gov-  
18 ernmental agency subject to KRS 353.500 to 353.720, trustee, so-called common law or statuto-  
19 ry trust, guardian, executor, administrator or fiduciary of any kind;

20 (6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to  
21 recover and receive without waste the oil and gas in and under his tract or tracts, or the equiva-  
22 lent thereof;

23 (7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity,

1 ~~which are produced at the well in liquid form by ordinary production methods and which are not~~  
2 ~~the result of condensation of gas after it leaves the underground reservoir;~~

3 ~~(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not de-~~  
4 ~~finied above as oil;~~

5 ~~(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas~~  
6 ~~or both. Each productive zone of a general structure which is completely separated from any oth-~~  
7 ~~er zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared~~  
8 ~~by the department, is covered by the word "pool" as used herein;~~

9 ~~(10) "Field" means the general area which is underlaid or appears to be underlaid by at least~~  
10 ~~one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The~~  
11 ~~words "field" and "pool" mean the same thing when only one (1) underground reservoir is in-~~  
12 ~~volved; however, "field" unlike "pool" may relate to two (2) or more pools;~~

13 ~~(11) "Just and equitable share of production" means, as to each person, an amount of oil or~~  
14 ~~gas or both substantially equal to the amount of recoverable oil or gas in that part of a pool un-~~  
15 ~~derlying his tract or tracts;~~

16 ~~(12) "Well" means a borehole drilled, or proposed to be drilled, for the purpose of producing~~  
17 ~~natural gas or petroleum, or one through which natural gas or petroleum is being produced, or A~~  
18 ~~borehole drilled or proposed to be drilled for the purpose of injecting any water, gas or other flu-~~  
19 ~~id therein or one into which any water, gas or other fluid is being injected;~~

20 ~~(13) "Deep well" means any well drilled and completed below the depth of 4,000 feet or, in~~  
21 ~~the case of a well located east of longitude line eighty four (84) degrees thirty (30) minutes, a~~  
22 ~~well drilled and completed at a depth below 4,000 feet or below the base of the lowest member~~  
23 ~~of the Devonian Brown Shale, whichever is deeper;~~

1     ~~(14) "Operator" means any owner of the right to develop, operate and produce oil and gas~~  
2     ~~from a pool and to appropriate the oil and gas produced therefrom, either for himself or for him-~~  
3     ~~self and others; in the event that there is no oil and gas lease in existence with respect to the tract~~  
4     ~~in question, the owner of the oil and gas rights therein shall be considered as "operator" to the ex-~~  
5     ~~tent of seven eighths (7/8) of the oil and gas in that portion of the pool underlying the tract~~  
6     ~~owned by such owner, and as "royalty owner" as to one eighth (1/8) interest in such oil and gas;~~  
7     ~~and in the event the oil is owned separately from the gas, the owner of the right to develop, oper-~~  
8     ~~ate and produce the substance being produced or sought to be produced from the pool shall be~~  
9     ~~considered as "operator" as to such pool;~~

10    ~~(15) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the ex-~~  
11    ~~tent that such owner is not an operator as defined in subsection (14) of this section;~~

12    ~~(16) "Drilling unit" generally means the maximum area in a pool which may be drained effi-~~  
13    ~~ciently by one (1) well so as to produce the reasonable maximum recoverable oil or gas in such~~  
14    ~~area. Where the regulatory authority has provided rules for the establishment of a drilling unit~~  
15    ~~and an operator, proceeding within the framework of the rules so prescribed, has taken the action~~  
16    ~~necessary to have a specified area established for production from a well, such area shall be a~~  
17    ~~drilling unit.~~

18    ~~(17) The singular shall include the plural, and the masculine gender shall include the feminine~~  
19    ~~and neuter].~~

20    Section 2. Rules of Procedure. (1)(a) Except as established in paragraph (b) of this subsec-  
21    tion, all orders of the commission establishing drilling units, pool or field-wide units, or  
22    special field rules, shall be issued only after notice and hearing in accordance with this ad-  
23    ministrative regulation and consistently with the provisions of KRS 353.500 to 353.720.

1 (b) The commission may issue emergency orders without notice and without an initial  
2 hearing upon a finding of necessity to prevent waste, irreparable injury, or other cause.

3 1. An emergency order shall remain in effect for not more than forty-five (45) days from  
4 the effective date.

5 2.a. Immediately upon entering an emergency order, the commission shall call a hearing  
6 on the subject matter thereof.

7 b. The hearing shall be held prior to the expiration of the order.

8 (2) A public hearing pursuant to KRS Chapter 13B shall be conducted by the commission:

9 (a) As a result of a reported violation of a requirement of this administrative regulation ;

10 (b) To consider a permit application;

11 (c) Upon a request to establish a drilling unit, pool, field-wide unit, or special field re-  
12 quirement; or

13 (d) A combination of items established in paragraphs (a) through (c) of this subsec-  
14 tion. ~~[Rules, administrative regulations, and orders of the commission of general, or~~  
15 ~~statewide, effect shall be submitted, published, and reviewed in accordance with KRS~~  
16 ~~Chapter 13A. Hearings on such rules, administrative regulations, or orders shall be held, in~~  
17 ~~accordance with KRS Chapter 13A.~~

18 ~~(2) Rules, administrative regulations, or orders other than those of general, or statewide,~~  
19 ~~effect, including but not limited to orders establishing drilling units, pool or field-wide~~  
20 ~~units, or special field rules, shall be adopted only after notice and hearing in accordance~~  
21 ~~with these rules and consistently with provisions of KRS 353.500 to 353.720.]~~

22 (3) All hearings before the commission shall be open to the public. Hearings shall be called by  
23 the commission for the purpose of taking an action in respect to any matter within its jurisdiction

1 upon its own motion or upon the request~~[or application]~~ of any interested party.~~[Applications or]~~  
2 Requests for hearing (except as otherwise provided herein) shall be written and may be in the  
3 form of a letter, shall be brief and concise, shall state in general terms the matter upon which ac-  
4 tion of the commission is desired, the interest of the applicant, or person making the request, the  
5 action sought, and the reasons therefor.

6 (4) The director shall maintain a docket book for the commission.~~[, and]~~

7 (a) Each written request for a hearing and hearing~~[All applications or requests for hear-~~  
8 ~~ings and all hearings]~~ called on motion of the commission shall be docketed and given a docket  
9 number, and a file carrying each~~[such]~~ number shall be opened by the director.

10 (b) Each written request for a hearing~~;~~~~[All applications for hearing,]~~ a copy of the notice  
11 of hearing, together with proof of its publication pursuant to subsection (7) of this section~~;~~  
12 the originals of all instruments, documents, plats, and other data filed in connection with the  
13 hearing or the subject matter thereof~~;~~~~[,]~~ a transcript of all evidence taken at the hearing~~;~~~~[,]~~ the  
14 originals or copies of all correspondence with the commission concerning the~~[such]~~ hearing or  
15 the subject matter thereof shall be stamped with the docket number of the hearing and placed and  
16 kept in the file carrying the~~[such]~~ number.

17 (c) The docket book and all files pertaining to hearings shall be open to the public at all rea-  
18 sonable times but shall not be removed from the custody of the commission or its employees.

19 (d) Copies of written requests for hearings~~[all such]~~ instruments, documents, plats, other  
20 data, and correspondence shall be furnished to any interested party upon payment of the cost of  
21 making such copies in accordance with the Kentucky Open Records Act, KRS 61.874.

22 (e) Each notice~~[All notices]~~ of hearing shall refer to the docket number thereof.~~[Copies of~~  
23 ~~applications for hearing shall be furnished by the director to any person upon request in~~

1 ~~accordance with the Kentucky Open Records Act.]~~

2 (5) All hearings shall be held in Frankfort~~[Lexington]~~, Kentucky, unless otherwise ordered.

3 (6)(a) Upon receipt of a proper request or completed application for hearing, the commission  
4 shall call a hearing within thirty (30) days.

5 ~~(b)[, and after such hearing and with all convenient speed, and in any event]~~ Within thir-  
6 ty (30) days after the conclusion of the hearing, the commission shall take action with regard to  
7 the subject matter thereof.

8 (7)(a) Notice of each hearing~~[all hearings]~~ shall be given by publication~~[, as authorized by~~  
9 ~~KRS 353.680,]~~ in accordance with KRS Chapter 424.

10 ~~(b) If~~~~[When]~~ required by KRS 353.651 or 353.652 to give personal notice to all persons rea-  
11 sonably known to own an interest in the oil and gas in an area to be unitized or for which special  
12 field rules are proposed, the commission shall give the~~[such]~~ notice by registered mail unless a  
13 person has given a mailing address as established~~[provided]~~ in subsection (8) of this section.

14 (8)(a) The director shall maintain a general mailing list ~~of~~~~[and shall place thereon]~~ the  
15 names and addresses of all persons~~[, firms, or corporations]~~ who make request in writing to be  
16 included on the general mailing~~[such]~~ list. Each person~~[, firm, and corporation]~~ on the gen-  
17 eral~~[such]~~ mailing list shall be mailed by first class mail at the address listed a copy of all notic-  
18 es and orders issued by the commission.

19 ~~(b)~~ The director shall maintain a mailing list for each field in the state containing one (1) or  
20 more deep wells and shall place on each mailing for each field~~[such]~~ list the names and ad-  
21 dresses of all persons~~[, firms, or corporations]~~ who make request in writing to be includ-  
22 ed~~[thereon]~~. Each person included on the mailing list ~~for~~~~[of]~~ a~~[any]~~ field shall be mailed by first  
23 class mail at the address listed a copy of all notices and orders issued by the commission per-



1 taining to that~~[as to such]~~ field.

2 (c) The failure to mail a copy of a notice to a person on a list established by this section  
3 shall not invalidate a~~[any such person[, firm, or corporation] shall not affect the validity of~~  
4 ~~any]~~ hearing held pursuant to this section~~[the notice published in accordance with subsection~~  
5 ~~(7) of this section or any rule, administrative regulation, or order issued pursuant to such~~  
6 ~~hearing;]~~ unless the person omitted from the notice mailing~~[such person is one reasonably]~~  
7 known to own an interest in the oil and gas in an area to be unitized and for which special field  
8 rules are proposed~~[and who is thus entitled to personal notice by KRS 353.651 or 353.652.~~  
9 ~~When a person entitled to personal notice of a hearing has requested to be placed on either~~  
10 ~~the general or a field mailing list, a notice mailed by first class mail to the address given~~  
11 ~~shall constitute compliance with KRS 353.651 or 353.652, as the case may be].~~

12 (9) Each notice of a hearing~~[Notices of all hearings]~~ shall state the;

13 (a) Time and place of the hearing;

14 (b)~~[, the]~~ Name of the party requesting the hearing;

15 (c) Nature of the hearing;

16 (d)~~[, the nature thereof, the]~~ Action sought; and

17 (e)~~[, and the]~~ Docket number.

18 (10) A~~[No]~~ notice by personal service shall not be necessary except as required by KRS  
19 353.651 or 353.652 and to each person reasonably known to have an interest in the proceed-  
20 ings before the commission~~[or by special order of the commission entered on its minutes].~~

21 (11) After notice of a hearing is once given, the hearing may be continued to another day and  
22 from day to day by order of the commission entered on the day fixed for the hearing.

23 (12) An~~[The commission may adopt an emergency rule, administrative regulation, or~~

1 ~~order of general, or statewide, effect without notice and hearing upon a finding of necessity~~  
2 ~~to prevent waste, prevent irreparable injury, or other cause and issuance by the Governor~~  
3 ~~of an executive order providing that it shall become effective upon submission to the Legis-~~  
4 ~~lative Research Commission in accordance with KRS Chapter 13A. Such a rule, adminis-~~  
5 ~~trative regulation, or order shall provide that it will remain in force no longer than 120~~  
6 ~~days from the date of filing. If the commission desires to make such a rule, administrative~~  
7 ~~regulation, or order permanent, it shall proceed as required by KRS Chapter 13A.~~

8 (13) ~~The commission may adopt emergency rules, administrative regulations, or orders~~  
9 ~~other than those of general, or statewide, effect without notice and hearing upon a finding of~~  
10 ~~necessity to prevent waste, irreparable injury, or other cause. Any such rule, administrative~~  
11 ~~regulation, or order shall provide that it will remain in force no longer than forty-five (45)~~  
12 ~~days from its effective date. Immediately upon entering such a rule, administrative regula-~~  
13 ~~tion, or order, the commission shall call a hearing on the subject matter thereof, and such~~  
14 ~~hearing shall be held prior to the expiration of the rule, administrative regulation, or order.~~

15 (14) ~~All~~ interested person~~[persons]~~~~[parties]~~ shall have the right to be heard at a hearing~~[all~~  
16 ~~hearings]~~ and to present witnesses and other evidence whether or not represented by legal coun-  
17 sel or technical assistance. In addition to verbal testimony, the commission may require any  
18 protest made to be reduced to writing and filed.

19 ~~(13)~~~~(15)~~ In a~~[any]~~ proceeding before the commission subpoenas may be issued requiring  
20 the attendance of witnesses and the production of books, records, maps, charts, diagrams, and  
21 other pertinent documents material to the matters lawfully before the commission at the desig-  
22 nated place of hearing.

23 (14) Each hearing~~[(16) Hearings]~~ shall be opened with the reading of the notice or notices.

1 The request for hearing, the notice or notices thereof, and proof of the due publication of the no-  
2 tice or notices of the hearing shall be made a part of the record of the hearing.

3 **(15) Each witness**~~[(17) All witnesses]~~ shall be required to testify under oath, administered by  
4 a member of the commission, to tell the truth, the whole truth, and nothing but the truth, and all  
5 witnesses shall be subject[, ] to direct and cross-examination by any member of the commission  
6 or by any~~[interested]~~ party or **the party's[its] legal**~~[by his]~~ representative.

7 **(16)**~~[(18)]~~ In all noncontested matters or in contested matters **in which**~~[where]~~ those parties  
8 who appear in person at the hearing agree thereto, sworn affidavits may be received in evidence.  
9 The commission reserves the right to reject **an affidavit**~~[any and all such affidavits]~~ and to re-  
10 quire the affiant to appear in person **if more information is necessary**.

11 **(17)**~~[(19)]~~ The materiality, relevancy, and competency of any testimony or other evidence  
12 shall be subject to challenge by any party to the hearing or by any member of the commission.  
13 **An objection**~~[When so interposed, such objections]~~ shall be acted upon by the chairman or by  
14 the acting chairman, **the**~~[his]~~ ruling thereon being subject to change by a majority vote of the  
15 commission members **present**.

16 **(18) Each party**~~[then sitting,~~

17 ~~(20) All parties]~~~~[persons]~~ presenting **an exhibit**~~[exhibits]~~ shall file a total of eight (8) copies  
18 with the reporter. **A suggested form of order shall be filed as five (5) copies**~~[All suggested~~  
19 ~~forms of orders shall be presented in quintuplicate]~~. These requirements may be waived by  
20 the commission **if compliance would be unduly burdensome**.

21 **(19)**~~[(21)]~~ The commission shall ~~[from time to time]~~ by order entered on its minutes appoint a  
22 competent~~[shorthand]~~ reporter **or videographer**.

23 **(a) Each hearing**~~[-All hearings]~~ shall be recorded by a reporter **or videographer** appointed

1 by the commission and sworn faithfully to discharge his or her~~[duties in accordance with law~~  
2 ~~and the direction of the commission]~~.

3 (b) The reporter or videographer shall transcribe or record hearings only upon order of the  
4 commission.

5 (c) If a transcript or video record is ordered by the commission, the transcript or video  
6 record~~[When such an order has been entered, transcripts]~~ shall be available for:

7 (a) Inspection at the office of the commission in Frankfort~~[Lexington]~~; and

8 (b)~~[, Kentucky and transcripts shall be available for]~~ Purchase by~~[interested]~~ parties from  
9 the reporter or videographer at rates prescribed for transcripts of evidence or video records in  
10 circuit court proceedings in Kentucky, whether ordered transcribed by the commission or  
11 not.~~[(22) Regular monthly meetings shall be held by the commission on the first Friday of each~~  
12 ~~month. Where circumstances permit, the commission, after sounding the docket, shall first call~~  
13 ~~up and dispose of all noncontested matters and motions for continuance.]~~

14 Section 3. Permitting and Spacing of Wildcat Wells. (1) The 10,000 feet from a horizontal  
15 wildcat well shall be measured as 10,000 feet from any point along the lateral portion of the  
16 wellbore that is located in the productive formation.~~["Wildcat well" means either a deep well~~  
17 ~~drilled with the intent of discovering and producing hydrocarbons from a formation or for~~  
18 ~~mations not previously productive of oil or gas from a well within 25,000 feet of its location, or a~~  
19 ~~well drilled under such proven geological conditions that, even though located less than 25,000~~  
20 ~~feet from the nearest deep well previously productive of oil or gas, will not, if completed suc-~~  
21 ~~cessfully, produce from a previously productive pool.]~~

22 (a) Proof supporting permitting of a well located less than 10,000~~[25,000]~~ feet from the near-  
23 est deep well previously productive of oil or gas shall~~[should]~~ be submitted to the director with

1 the permit application.[;]

2 ~~(b)[The director may, however, require additional proof.]~~ If a deep well encounters a for-  
3 mation or pool as to which it is not a wildcat well, it shall~~[may]~~ not be produced unless it is other-  
4 wise in compliance with the permit requirements and spacing requirements established in Sec-  
5 tion 4 of this administrative regulation~~[regulations]~~ for other wells in that formation or pool.

6 ~~(c)~~ The director may~~[, in his discretion,]~~ grant permission to test previously producing for-  
7 mations encountered in the drilling of a wildcat well and shall establish permit~~[may fix such]~~  
8 conditions ~~to~~~~[as, in his judgment, will]~~ protect the formation or formations tested and the rights of  
9 the operator of any well or wells producing therefrom. If the director grants permission for  
10 ~~[such]~~testing, ~~[he shall inform]~~the other members of the commission in writing of the~~[his]~~ action.

11 (d) If an operator files an Application for Permit, ED-1, incorporated by reference in 805  
12 KAR 1:140~~[application for a wildcat well, pursuant to this section]~~, which does not meet the  
13 spacing provisions of this section, the director shall notify the commission. The commission  
14 shall consider~~[may hear]~~ the new application if the commission~~[it]~~ finds, from the new appli-  
15 cation, that conditions ~~[may]~~warrant an exception to this section.

16 (2) Within ninety (90) days following the completion of testing by surface production test of a  
17 wildcat well shown to be capable of production of oil or gas, or within ninety (90) days of comple-  
18 tion as a producible well, whichever occurs first, the operator thereof shall file with the commis-  
19 sion a plat showing a proposed unit for the well conforming to the rules established~~[provided]~~ in  
20 Section 4(1) of this administrative regulation.~~[(3) No additional permits will be issued for the pool~~  
21 ~~until a proposed unit plat is filed, and when the plat is filed for a wildcat well or any subsequent~~  
22 ~~wells, no permits shall be issued which will violate the integrity of the proposed unit or the spacing~~  
23 ~~regulations established by Section 4(2) to (4) of this administrative regulation.]~~

1 Section 4. Drilling and Spacing of Vertical Deep Oil and Gas Wells. (1)(a) If a permit is re-  
2 quested for a vertical deep gas well other than a wildcat well or a well drilled on a unit previous-  
3 ly formed by the commission, the Application for Permit, ED-1, incorporated by reference in  
4 805 KAR 1:140,[application] shall include a plat showing a proposed unit comprising a square  
5 with sides of 3,500 feet if the well is to be drilled to a depth less than 7,000 feet and with sides of  
6 5,000 feet if the well is to be drilled to a depth of 7,000 feet or more.

7 (b) If the permit is for a vertical deep oil well, the proposed unit plat shall comprise a square  
8 with sides of 1,750 feet if the well is to be drilled to a depth of less than 7,000 feet and 2,500 feet  
9 if the well is to be drilled to a depth of 7,000 feet or more.

10 (c) The first proposed unit for a pool shall be delineated so that the line forming one (1) side  
11 of the square is a base line running from south to north parallel to the Kentucky Coordinate Sys-  
12 tem. All other north-south lines for that proposed unit and any additional units for the same pool  
13 shall be drawn parallel to the base line.

14 (2) Except as established[provided] in subsections (4) and (5) of this section, a vertical deep  
15 gas well drilled to a depth:

16 (a)[~~no vertical deep gas well drilled to a depth~~] Less than 7,000 feet shall not be located  
17 within 1,072 feet of the boundary of the proposed unit;[;] and

18 (b)[~~no vertical deep gas well drilled to a depth~~] Of 7,000 feet or more shall not be drilled  
19 within 1,532 feet of the boundary of the proposed unit.

20 (3) Except as established[provided] in subsections (4) and (5) of this section, a deep oil well  
21 drilled to a depth:

22 (a)[~~no deep oil well drilled to a depth~~] Less than 7,000 feet shall not be located within 536  
23 feet of the boundary of the proposed unit;[;] and

1 ~~(b)[no deep oil well drilled to a depth]~~ Of 7,000 feet or more shall not be drilled within 766  
2 feet of the boundary of the proposed unit.

3 (4)(a) Pursuant to paragraph (b) of this subsection, upon receiving evidence showing a ne-  
4 cessity~~[therefor]~~, the director ~~shall~~~~[may in his discretion]~~ grant a permit in accordance with  
5 subparagraphs 1. through 4. Of this paragraph. A vertical deep oil well at a depth~~[permits~~  
6 ~~with the following limitation on well location]~~:

7 1. ~~[A vertical deep oil well at a depth]~~Less than 7,000 feet ~~shall not~~~~[may]~~ be located  
8 ~~[no]~~closer than 438 feet to the boundary of the proposed unit;~~[-]~~

9 2. ~~[A vertical deep oil well at a depth]~~Of 7,000 feet or more ~~shall not~~~~[may]~~ be located  
10 ~~[no]~~closer than 625 feet to the boundary of the proposed unit;~~[-]~~

11 3. ~~[A vertical deep gas well at a depth]~~Of less than 7,000 feet ~~shall not~~~~[may]~~ be located  
12 ~~[no]~~closer than 875 feet to the boundary of the proposed unit; ~~and~~~~[-]~~

13 4. ~~[A vertical deep gas well at a depth]~~Of 7,000 feet or more ~~shall not~~~~[may]~~ be located  
14 ~~[no]~~closer than 1,250 feet to the boundary of the proposed unit.

15 (b) The director shall not grant a permit ~~pursuant to~~~~[under]~~ the provisions of paragraph (a)  
16 of this subsection~~[subsection (4)(a) of this section]~~ except in the presence of evidence that  
17 supports~~[which reasonably substantiates]~~ that the proposed location is justified by either  
18 topographical or geological conditions. Upon granting this~~[such a]~~ permit, the director shall in-  
19 form the other members of the commission of his or her action in writing.

20 (c) Prior to the time a certificate of compliance is granted and a well located in accordance  
21 with paragraph (a) of this subsection is produced other than for the purpose of testing, the direc-  
22 tor shall determine if~~[whether]~~ a hearing is necessary for the purpose of taking any special ac-  
23 tion that may be required to offset any advantage resulting from the location of the well accord-

ing to the permit and thus protecting correlative rights of others with interests in the pool. If it is determined that special action is necessary, the director shall call a hearing of the commission.

(5)(a)~~[Exception]~~ A location that varies~~[Locations-varying]~~ from the limitations established~~[provided]~~ in subsections (2) to (4) of this section shall~~[may]~~ be granted if the commission determines, after notice and hearing, and the facts clearly support the determination, that a proposed unit or a previously formed unit is partly outside the pool, or, for some other reason, a well located in accordance with the statewide rules could not reasonably be expected to be productive or topographical conditions are such as to make the drilling at such a location unduly burdensome. A written request~~[An application]~~ for an exception location shall be accompanied by a plat drawn to the scale of not smaller than 1:12,000 accurately showing to scale the proposed location of the well according to the Carter Coordinate System and all other deep wells within two (2) locations of the proposed location.~~[The application shall be verified by some person acquainted with the facts.]~~

(b) If~~[When]~~ an exception location is sought on the ground of topographical conditions, it shall be demonstrated~~[must be shown]~~ that the commission can effectively offset any advantage to the applicant accruing from the~~[such]~~ variation.

(c) If~~[Whenever]~~ an exception location is granted, the commission shall take [such] concurrent action as [may be] required to offset any advantage to the applicant and thus to protect the correlative rights of others with interests in the pool. If the proposed unit or already formed unit is of less acreage than that prescribed by the applicable spacing rule for a regular unit, if~~[whether]~~ proposed or formed according to special field orders for the pool in question, the~~[such]~~ special unit shall be allowed to produce only in the proportion that the acreage content of the~~[such]~~ special unit bears to the acreage content of a regular unit.



(6) ~~[No portion of]~~ A proposed unit, a portion of a proposed unit, or a unit formed by order of the commission upon which a well is located shall not be attributed, in whole or in part, to any other drilling or producible well in the same pool.

(7)(a)1. Unless authorization to intentionally deviate and directionally drill a well is granted by the commission, every well shall be drilled in such a manner that at any measured depth the actual or apparent location of the well bore shall be within a circle whose center is the surface location and whose radius is equal to the measured depth multiplied by a factor 0.087156.

2. The actual or apparent resultant deviation of the well bore from the vertical shall not be in excess of five (5) degrees at any measured depth.

3. In the event a directional survey indicates that the well bore is outside the above circle at any measured depth, the deviation shall~~[must]~~ be corrected so that drilling shall~~[will]~~ be restored to the specified limit.

4. Upon completion of a survey indicating~~[showing or in the presence of knowledge giving rise to a reasonable belief]~~ that a well may be deviated beyond the above prescribed tolerance, the operator shall inform the director.

5.a. ~~If~~After an operator has commenced drilling a well and desires to change the bottom hole location by directionally controlling and intentionally deflecting the well from the vertical, whether more or less than five (5) degrees, unless done to straighten the hole or to sidetrack debris~~[junk]~~ in the hole or because of other mechanical difficulties, the operator~~[he]~~ shall first make application for an amended location showing by attached plat the amended projected bottom hole objective and secure an amended permit to drill before commencing~~[such operations]~~.

b. The amended bottom hole location or objective shall comply with all minimum distances from unit lines as required~~[prescribed]~~ by all statewide orders or applicable field orders.

(b) In the event a well is to be drilled at a distance from a unit line where ~~the[such]~~ distance is less than the apparent resultant lateral deviation, as determined by multiplying the proposed total depth of the well by the factor 0.087156, a permit to drill ~~shall[will]~~ be issued ~~and[with the understanding that]~~ the operator ~~shall[will]~~ be required to ~~submit to[furnish]~~ the commission ~~[with]~~inclination or directional survey data as proof that the well ~~shall[will]~~ be completed in compliance with the provisions of this ~~administrative regulation[order]~~ before a certificate of compliance is issued.

1. An inclination survey shall be made on ~~each well[all wells]~~ drilled with the first shot point at a depth not greater than that of the surface casing seat and succeeding shot points not more than 1,000 feet apart.

2. Inclination surveys conforming to ~~this section shall[these requirements may]~~ be made either during the normal course of drilling or after the well has reached total depth.

3.[Such] Survey data shall be certified by the operator's representative or drilling contractor and shall indicate the resultant lateral deviation as the sum of the calculated lateral displacement determined between each inclination survey point, assuming that all ~~[such]~~displacement occurs in the direction of the nearest unit line.

4. If a directional survey determining the bottom of the hole is filed with the commission upon completion of the well, ~~there shall not be a requirement to submit[it shall not be necessary to furnish]~~ the inclination survey data.

(c) ~~[The commission may, at its discretion, require an operator to conduct inclination or directional surveys under conditions other than those above specified.]~~

~~(d)~~ An applicant for a hearing to issue special field orders for a new pool or otherwise to establish a drilling unit, or any interested party, may request that the commission pool the interests

1 of the owners and the royalty owners in any unit or units established as a result of the hearing.

2 1. A request to pool separately owned tracts concurrently with the establishment of a unit or  
3 units shall be submitted with the written request~~(application)~~ for the hearing, or sufficiently in  
4 advance to include notice of the request in the notices of hearing.

5 2. If~~When~~ necessary, the commission shall~~may~~ on its own motion include the pooling of  
6 separately owned tracts in the notice of a hearing to establish a unit or units.

7 3. If separately owned tracts are not pooled as a result of the hearing to establish a unit or  
8 units, any interested party may request pooling at any subsequent time.

9 4.~~;~~~~provided, however, that~~ If the owners and royalty owners have not agreed to pool their  
10 interests within 120 days of the issuance of a certificate of compliance, the operator of the well  
11 shall apply for a hearing to issue a pooling order.

12 (8) ~~No~~ Additional permits for a deep vertical well shall not~~will~~ be issued for the pool until  
13 a proposed unit plat is filed. Once~~, and when~~ the plat is filed for a wildcat well or any subse-  
14 quent wells, ~~no~~ additional permits for a deep vertical well shall not be issued if the per-  
15 mits~~which~~ will violate the integrity of the proposed unit or the spacing regulations established  
16 by this section.

17 Section 5. Horizontal Unitization and Pooling for Deep Well Reservoirs. (1) In accordance  
18 with~~Under~~ the procedures established~~contained~~ in this section, the commission shall~~is au-~~  
19 ~~thorized to~~ unitize a productive deep well reservoir for the drilling of deep horizontal wells for  
20 the purposes of:

21 (a) Achieving a greater ultimate recovery of oil and gas from the~~such~~ reservoir;

22 (b)~~;~~ Preventing waste; and

23 (c) Protecting the correlative rights of the owners of oil and gas in the unit.

1 (2) If the Application for Permit, ED-1, incorporated by reference in 805 KAR  
2 1:140, ~~application to permit a single deep horizontal well~~ has been submitted or well permits  
3 have been submitted for multiple horizontal wells to be drilled from a single well pad, the pro-  
4 posed operator of those wells may simultaneously or thereafter apply to create a unit for the co-  
5 ordinated drilling and operation of the ~~such~~ well or wells and the allocation of costs and pro-  
6 duction from the well.

7 (a) A written request ~~such well. An application~~ to create ~~such~~ a unit, shall include:

8 1. All information required by KRS 353.652 and 805 KAR Chapter 1; ~~applicable regula-~~  
9 ~~tions~~ and

10 2. A plat of the proposed unit.

11 (b) For a single deep horizontal well, the plat shall also include the:

12 1. Surface location of the proposed well;

13 2. ~~the~~ Directional path of the lateral portion of the wellbore; ~~;~~ and

14 (c) ~~the~~ Point of entry into any proposed producing formation.

15 (d) For multiple deep horizontal wells to be drilled from a single well pad, the plat shall show  
16 the plan of development for the unit ~~that~~ ~~which~~ shall include the:

17 1. Surface location of each well;

18 2. ~~the~~ Directional path of the lateral portion of the wellbore; ~~;~~ and

19 3. ~~the~~ Point of entry into any proposed producing formation.

20 (e) The plan of development shall be fair, reasonable, ~~and~~ equitable, and shall meet all re-  
21 quirements of this section and KRS 353.651 and 353.652.

22 (3) If the director determines the permit requirements for the wells included in the proposed  
23 deep horizontal well unit have been met, the director shall notify the commission within five (5)

1 working days of the pending application, and the commission shall~~will~~ set a hearing date for  
2 the commission to review and consider the requested unit. The~~Such~~ hearing shall be held  
3 ~~[within a reasonable period of time, but]~~not more than thirty (30) days from the date the direc-  
4 tor has notified the commission of the pending application.

5 (a) The director shall~~will promptly~~ forward to the commission a complete copy of the ap-  
6 plications for the deep horizontal well permits and unit designation and all documents and infor-  
7 mation filed.

8 1. ~~[therewith.]~~If, upon reviewing the written request~~application~~ for the unit, the commis-  
9 sion determines that it does not have sufficient data to make the findings required by~~under~~  
10 KRS 353.652, the commission shall~~it may~~ request additional information from the applicant  
11 prior to the hearing.

12 2. If additional information is requested by the commission, the commission shall~~will~~  
13 ~~promptly~~ so notify the operator, and the additional information shall~~may~~ be filed with the  
14 commission prior to the hearing or it shall~~may~~ be presented to the commission at the hearing.

15 (b) Upon the request of the operator, and to the extent the commission is legally authorized to  
16 do so, the commission shall keep confidential for a period of one (1) year following the date the  
17 deep horizontal well is completed, any geological or technical information provided in support of  
18 a proposed unit.

19 (4) The commission shall consider the complete application for the proposed deep horizontal  
20 well unit based on information and testimony presented by the operator at the hearing that  
21 the~~such~~ unit is necessary to prevent waste and to protect correlative rights and that it shall~~will~~  
22 result in the increased recovery of substantially more oil and gas from the reservoir than would  
23 otherwise be recovered based upon~~[- but not necessarily limited to, the following factors]:~~

1 (a) Geological features existing with the proposed unit delineated by the geologically defined  
2 limits of the producing reservoir;

3 (b) Unit size, determined by estimating the likely drainage area for the proposed deep hori-  
4 zontal well[well(s)], considering the well depth, the reservoir pressure, and other geophysical  
5 and petrophysical characteristics of the particular formation;

6 (c) The proposed location or orientation of the proposed deep horizontal well;

7 (d) The length of the laterals of the proposed deep horizontal well;

8 (e) The proposed use of multilateral deep horizontal wells, if applicable;

9 (f) The anticipated principal fluid and anticipated total volume to be used in the well treat-  
10 ment; and

11 (g) A[~~Any~~] combination of the factors established in paragraphs (a) through (f) of this  
12 subsection[thereof].

13 (5)(a) After notice and hearing, the commission shall determine if the:

14 1.[~~(a) The~~] Proposed pooling or[~~and/or~~] unitization of the reservoir is reasonably calculated  
15 to increase the ultimate recovery of oil and gas from the reservoir through the use of horizontal  
16 well technology;

17 2.[~~(b) The~~] Use of horizontal well technology to drill the proposed deep horizontal wells in  
18 the reservoir:

19 a. Is feasible;

20 b.[~~;~~] Will prevent waste;

21 c.[~~;~~] Will protect correlative rights; and

22 d. Will with reasonable probability result in the increased recovery of substantially more oil  
23 and gas from the reservoir within the unit than would otherwise be recovered; and

1 3.~~(e)~~ The unitization and the use of horizontal well technology to drill the proposed deep  
2 horizontal wells is for the common good and will result in the general advantage of the royalty  
3 owners within the unit.

4 (b) Upon making these findings, the commission shall enter an order approving the creation  
5 of the proposed drilling and production unit and providing for the pooled or unitized operation of  
6 the deep well reservoir described in the order, all upon terms and conditions ~~[as may be]~~shown  
7 by the evidence to be fair, reasonable, equitable and that shall be~~[which are]~~ necessary or prop-  
8 er to protect and safeguard the respective rights and obligations of the working interest owners  
9 and the royalty owners.

10 (6) The order of the commission creating the unit shall:

11 (a) Approve the size and shape of the unit;

12 (b) Approve and adopt the plan of development for the unit, with a copy thereof attached to  
13 the order;~~;~~

14 (c) Designate the unit operator;

15 (d) Provide that the unit shall automatically terminate upon the expiration of all the well per-  
16 mits for the proposed deep horizontal wells within the approved unit; and

17 (e) Provide that, within ninety (90) days of the expiration of the permits for the proposed deep  
18 horizontal wells remaining undrilled in the approved plan of development, the designated unit  
19 operator shall~~[must]~~ apply for reformation of the drilling unit to conform the unit size and shape  
20 to the actual development that occurred.

21 (7) From and after the effective date of the order of the commission approving the unit, the in-  
22 terest of each royalty owner and overriding royalty interest owner in the unit shall be ~~[defined~~  
23 as]the percentage of interest owned by such royalty owner or overriding royalty interest owner in

1 each separate tract, multiplied by the proportion that the acreage in each separately owned tract  
2 bears to the entire acreage of the unit. The order shall provide for the right of the designated op-  
3 erator of the unit to drill through separately owned tracts that have been pooled voluntarily or by  
4 order of the commission within the unit as necessary in order to efficiently develop the pooled or  
5 unitized production.

6 (8) The costs incurred in connection with and the production and proceeds from the wells in  
7 the unit shall be allocated to each separate tract in the unit and shall be borne or shared by the  
8 working interest owners in each separate tract based upon and determined by the interest of each  
9 working interest owner in the tract. For the purpose of this section, any owner or owners of oil  
10 and gas rights in and under an unleased tract of land within the unit, shall be regarded as a royal-  
11 ty interest owner to the extent of the prevailing royalty in and to the rights and a working interest  
12 owner to the extent of the remaining interests therein.

13 Section 6. Certificate of Compliance. Prior to producing oil or gas from a deep well, other  
14 than test production for a period not in excess of sixty (60) days, the operator [thereof] shall ap-  
15 ply for and obtain a certificate of compliance from the director.

16 (1) The written request[application] for the certificate of compliance shall be verified, and  
17 shall provide information, including an "as-built" plat of each well[the well(s)] in the unit[, ade-  
18 quate to satisfy the director] that the permitted deep well as proposed in the unit application  
19 and plan of development, if applicable, were completed as set forth [therein] or in accordance  
20 with the final reformation of the drilling unit approved by the commission.

21 (2) The director shall issue the certificate of compliance or notify the operator of a decision  
22 not to issue the certificate of compliance within fifteen (15) days of receipt of an applica-  
23 tion[Certificate of Compliance. (1) Prior to production from a deep well, other than test produe-



tion for a period not in excess of fifteen (15) days, the operator thereof shall apply for and obtain a certificate of compliance from the director. The application, which must be verified, shall disclose information adequate to satisfy the director that:

(a) All working interests in the drilling unit or proposed unit are identically owned, or have been pooled by voluntary agreement or order of the commission, or that the well may be produced without violating the correlative rights of any owner in the unit; and

(b) The operator in the location, drilling, and completion of the well has complied with the conservation laws of the Commonwealth and the rules and administrative regulations established by the Director of the Division of Oil and Gas and the commission applicable thereto.

(2) A certificate of compliance for a well for which a unit has not been established may be conditioned by the director by limiting its duration to a period of not more than 180 days unless a unit has been established and separately owned tracts have been pooled voluntarily or by order of the commission].

Section 7[6]. **Request[Application]** for Special Field Orders for Wells. (1) **If[When]** a new pool is penetrated and a well is proven by surface production test to be capable of producing oil or gas in paying quantities, the operator **[thereof]** shall, within 120 days after the test is completed or after the well is completed as a producible well, whichever occurs first, or within sixty (60) days of the completion of a confirmation well in the pool, whether drilled by **the operator[him]** or another operator, **request[apply]** for a hearing to issue special field orders governing the spacing of wells and establishment of units in the pool.

(2) **A written request[An application]** for special field orders shall contain a plat showing all wells in the pool affected and the unit or units proposed for the pool.

(3) If upon testing a discovery well **[an operator believes that]** the confirmation well should

1 not or cannot reasonably be located in accordance with the statewide spacing rules, the opera-  
2 tor[he] shall proceed by requesting[applying] for a hearing to obtain an exception loca-  
3 tion.~~[Section 7. Pooling of Interests in Units Established by Order of the Commission. (1) An~~  
4 ~~applicant for a hearing to issue special field orders for a new pool or otherwise to establish a~~  
5 ~~drilling unit, or any interested party, may request that the commission pool the interests of the~~  
6 ~~owners and the royalty owners in any unit or units established as a result of the hearing. A re-~~  
7 ~~quest to pool separately owned tracts concurrently with the establishment of a unit or units must~~  
8 ~~be submitted with the application for the hearing, or sufficiently in advance to include notice of~~  
9 ~~the request in the notices of hearing. When in its judgment it is necessary, the commission may~~  
10 ~~on its own motion include the pooling of separately owned tracts in the notice of a hearing to es-~~  
11 ~~tablish a unit or units.~~

12 (2) ~~If separately owned tracts are not pooled as a result of the hearing to establish a unit or~~  
13 ~~units, any interested party may request pooling at any subsequent time; provided, however, that~~  
14 ~~if the owners and royalty owners have not agreed to pool their interests within 120 days of the~~  
15 ~~issuance of a certificate of compliance, the operator of the well shall apply for a hearing to issue~~  
16 ~~a pooling order.]~~

17 Section 8. Reformation of Drilling Units. (1) Drilling units approved[formed] by the commis-  
18 sion may be reformed only upon notice and hearing as required by KRS 353.651, to exclude pre-  
19 viously included acreage or to include new acreage, or both.

20 (2)(a) A request for a hearing to reform drilling units shall[must] specify that there:

21 1. Is new geological data;

22 2. Is new[or] geophysical data; or

23 3.[there] Was a change in the proposed drilling of each well[well(s)] in the approved unit and

1 plan of development ~~that~~~~[which]~~ will form a basis for the requested reformation and generally  
2 describe the source and nature of the data.

3 (b) A unit shall~~[Units will]~~ not be reformed in the absence of ~~the~~~~[such]~~ data required by  
4 paragraph (a) of this subsection.

5 (c)1. New data shall~~[- Generally, "new data" must]~~ be data not in existence at the time of  
6 the hearing, resulting in the formation of the units proposed for reformation.

7 2. Reinterpretation of data existing at the time of the prior hearing ~~shall~~~~[will]~~ not serve as a  
8 basis for reformation.

9 Section 9. Testing of Water Sources near Deep Wells Employing High-Volume Horizontal  
10 Fracturing. At least twenty (20) days prior to commencement of the high-volume horizontal frac-  
11 turing treatment on a horizontal deep well, an owner or operator shall conduct baseline water qual-  
12 ity test of each down-gradient surface water impoundment or water supply ~~[testing]~~ from a  
13 groundwater source used for domestic, agricultural, or industrial purposes within 1,000 feet of a  
14 deep horizontal wellhead pursuant to KRS 353.6602~~[2015 Ky. Acts ch. 21, sec. 6(1)]~~.

15 (1) The owner or operator shall submit a notarized~~[complete an]~~ Analysis of Groundwater  
16 Source within 1,000 ft of Deep High-Volume Horizontal Fracturing Treatment, Form ED-  
17 40~~[ED-XX]~~, identifying the~~[following]~~:

18 (a) Well operator;

19 (b) Well name and number; Division of Oil and Gas permit number;

20 (c) Water source to include domestic water well, ponds, springs, and streams;

21 (d) Water source owner and permanent address;

22 (e) Distance water source from wellhead; and

23 (f) Dates of initial baseline and subsequent (after fracturing treatment and well completion)

1 water analysis.

2 (2) Water well quality testing to establish baseline parameters shall be completed and submitted to  
3 the Division of Oil and Gas thirty (30) days prior to hydraulic fracturing pursuant to KRS 353.6602.

4 (3) Laboratory analysis shall be conducted by a certified laboratory pursuant to KRS  
5 353.6602(2)[2015 Ky. Acts ch. 21, sec. 6(2)].

6 Section 10. Incorporation by Reference. (1) "Analysis of Groundwater Source within 1,000  
7 Feet[ft] of Deep High-Volume Horizontal Fracturing Treatment", Form ED-40, April 2015, is  
8 incorporated by reference.

9 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,  
10 at the Kentucky Division of Oil and Gas, 1025 Capital Center Drive, Frankfort, Kentucky 40602-  
11 2244, Monday through Friday, 8 a.m. to 4:30 p.m.

805 KAR 1:100 approved for filing.  
Pages (1-28)

6/15/15

Date

Leonard K. Peters

Leonard K. Peters, Secretary  
Energy and Environment Cabinet

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 1:100

Contact Person: Michael Mullins, Regulation Coordinator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides information necessary for owners and operators to comply with requirements related to drilling deep vertical and deep horizontal wells in the Commonwealth. The administrative regulation also provides information on the functions of the Kentucky Oil and Gas Conservation Commission.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide information related to drilling deep wells in the Commonwealth. The administrative regulation is also necessary to provide information to owners and operators on the operations and involvement of the Kentucky Oil and Gas Conservation Commission.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.565 requires the Kentucky Oil and Gas Conservation Commission to administer and enforce the provisions of KRS 353.651 and 353.652 by regulating the spacing of deep well drilling, drilling units and pooling of interests. This administrative regulation complies with those requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 353.565 requires the Kentucky Oil and Gas Conservation Commission to administer and enforce the provisions of KRS 353.651 and 353.652 by regulating the spacing of deep well drilling, drilling units and pooling of interests. This administrative regulation provides the necessary details for drilling a deep well in the commonwealth as well as the commission's role in pooling and spacing of those deep wells.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments related to comments will address several KRS 13A technical issues. Section 9 was also amended in order to make the administrative regulation match the intent of the authorizing statute.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure the administrative regulation complies with KRS 13A and also ensures compliance with KRS 353.6602.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 353.6602 requires operators to conduct a baseline water quality test prior to the commencement of a

high-volume horizontal fracturing treatment. This amendment alters the administrative regulation in order to ensure compliance with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: KRS 353.6602 requires operators to conduct a baseline water quality test prior to the commencement of a high-volume horizontal fracturing treatment. This administrative regulation will assist in the administration of the statutes by ensuring the operators are clear on how to conduct the required water tests.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact approximately 1,000 oil and gas operators within the Commonwealth. It will also have an impact to the members of the Kentucky Oil and Gas conservation Commission. The commission consists of 5 members.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed above will be required to meet requirements of this administrative regulation related to horizontal deep wells including the baseline water testing required by KRS 353.6602.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs associated with this proposal are difficult to predict as they will depend on the depth at which the well is drilled. The amendments will not add additional costs to the entities listed in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment will ensure operators are clear on how to conduct the required water tests.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: These amendments will not increase the costs of the agency to implement.

(b) On a continuing basis: These amendments will not increase the costs of the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: A combination of general funds and restricted funds will be used.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be a need to increase fees or funding related to the proposed amendments.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendments to this administrative regulation do not increase or establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities that drill a horizontal deep well will be treated in the same manner.



## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Admin. Regulation No. 805 KAR 1:100

Contact Person: Michael Mullins, Regulation Coordinator

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Oil and Gas and the Kentucky Oil and Gas Conservation Commission.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 353.565 and 353.6602.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This new administrative regulation will not generate any new revenue for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This new administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

DETAILED SUMMARY OF MATERIAL  
INCORPORATED BY REFERENCE  
805 KAR 1:100

This administrative regulation incorporates the following documents:

**I. Analysis of Groundwater Source within 1,000 Feet of Deep High-Volume Horizontal Fracturing Treatment, ED-40, (April 2015).** KRS 353.6602 requires operators to perform a baseline groundwater analysis and requires the Division of Oil and Gas to develop a form for the submittal of information. This material is the form required by KRS 353.6602(3). This material consists of 1 page.